

Proposed Competitive License Regulation

[To be inserted between 207 CMR 3.04 and 3.05:]

3.04.5 Competitive Licenses

- (1) In any city or town in which the licensing authority has issued a license pursuant to 207 CMR 3.03 or 207 CMR 3.04 and the holder of such a license is operating a cable system within the city or town, an applicant seeking to operate a cable system within the city or town in competition with the incumbent licensee(s) may initiate the licensing process by filing with the issuing authority an application in the form prescribed by the Commission pursuant to M.G.L. c. 166A, §4, and note thereon that an incumbent is currently providing cable service within the city or town. The applicant shall also file a copy of the application with the Commission. The provisions of this section, and not sections 3.02, 3.03 and 3.04 above, shall govern the disposition of such application.
- (2) No later than 60 days after an application is filed pursuant to 207 CMR 3.04.5(1), the issuing authority shall hold a public hearing to assess the qualifications of the applicant. Assessment of applicant qualifications shall be limited to the information provided in the application on file, any amendments to such application, oral testimony given during the hearing and other relevant information included in the hearing record.
- (3) An application under this section shall be approved and a final license to construct and operate a cable system shall be granted by the issuing authority following substantial compliance with each of the following requirements:
 - a. the submission requirements contained in the application form prescribed by the Commission, pursuant to M.G.L. c. 166A, § 4; and
 - b. the requirements of M.G.L. c. 166A, §§ 3, 4 and 5.
- (4) Within 30 days following the date of the hearing, the issuing authority shall approve or deny the application and shall issue a written public statement containing in detail the reasons for such approval or denial. If the application is approved, the issuing authority shall also issue a final license at that time. The issuing authority shall send copies of such statement and, if applicable, the final license to the applicant.
- (5) Within seven days of approving or denying the application pursuant to 207 CMR 3.04.5(3), the issuing authority shall file with the Commission a copy of such statement and, if applicable, a copy of the final license.

Proposed Replacement for Existing 207 CMR 3.09

3.09 Rights of Appeal

(1) Appeals to the Commission by aggrieved parties seeking an initial or renewal license pursuant to 207 CMR 3.00 shall be initiated in accordance with the provisions of M.G.L. c. 166A, § 14. The following parties shall have standing to appeal to the Commission:

(a) An applicant for an initial license aggrieved by a denial of its application by the issuing authority pursuant to 207 CMR 3.02(3), 3.03(5) or 3.04.5(4) or by the failure of an issuing authority to take any action required of it by 207 CMR 3.00 within 60 days of the date for such action as set forth in 207 CMR 3.00;

(b) An applicant for a license aggrieved by a denial of its application by the issuing authority pursuant to 207 CMR 3.04(3); or

(c) An applicant for a renewal license aggrieved by a denial of its application by the issuing authority pursuant to 207 CMR 3.06(3).

(2) Within 60 days of the filing of a petition of appeal pursuant to M.G.L. c. 166A, § 14, the Commission shall conduct a hearing *de novo* pursuant to said statute and issue such order as it deems appropriate to carry out the purpose of M.G.L. c. 166A and 207 CMR 3.00.